UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	**CASE NO. 6:14CR00063 (01)**
	§	
SHANNA TIDWELL	§	

SENTENCING MEMORANDUM

Comes now the Defendant, SHANNA TIDWELL, and would file this Sentencing Memorandum, and would show this Honorable Court as follows, to wit:

I.

PROCEDURAL HISTORY

On November 12, 2014, Defendant SHANNA TIDWELL was indicted by a grand jury in and for the Eastern District of Texas alleging violations of 21 U.S.C. § 846 and various other charges. On December 3, 2014, Defendant was arrested on the Indictment and she was released on $10,000.00 bond. A Superseding Indictment was filed on February 19, 2015, charging the Defendant with 48 separate crimes. On December 6, 2016, Defendant Tidwell entered a plea of guilty to a one-count Information alleging a violation of 18 U.S.C. §371, Conspiracy to commit offenses against the United States.

II.

SENTENCING MEMORANDUM

1. Staggered Sentences -

All objections have been resolved and Defendant Tidwell, after reviewing the revised Presentence Report, has no further objections. As the Court is aware from the PSR and from Defendant Jeremy Tidwell's sentencing on April 11, 2017, Mrs. Tidwell and Mr. Tidwell are codefendants in this case. Both defendants have agreed to binding plea agreements with the government which will require them both to serve prison sentences (60 months for Mr. Tidwell and 30 months for Mrs. Tidwell). The defendants are asking for their sentences to be served one after the other or consecutively to one another for the following reasons:

The Tidwells have both agreed to serve terms of imprisonment. Incarcerating both at the same time would impose an undue hardship on the Tidwells as a family both emotionally and financially. The Tidwells have two children, ages 16 and 9. The PSR reflects that their children would be taken care of by an aunt, Carlene Shipp, if necessary. Ms. Shipp's plans have changed with her daughter receiving a scholarship offer to a school in Arkansas. Her plans are to move by the summer. Furthermore, counsel has spoken with Ms. Shipp and she would struggle financially to provide for her niece and nephew. The separation of both parents from the children's lives would be an emotional crisis for the family, potentially being uprooted from their hometown, their school and their friends. The only other relative that lives in the area is Shanna's mother, who suffers from several severe medical issues, including heart problems that have required surgery and a recent diagnosis of cancer. She no longer can drive and is incapable both physically and financially of taking care of the children.

Furthermore, the financial impact would be devastating. With both in jail they could not continue to run their business and create income to sustain their residence and business activities. The business would have to be shut down and they would eventually be forced to sale all properties to survive. If the properties did not sale in a timely manner, the taxes owed on the properties could result in tax liens and ultimate foreclosures. The Tidwells currently owe more than $200,000.00 in federal income taxes after the seizure of their bank accounts in December of 2014. After paying federal, state, and local taxes on the residential and commercial property, along with income tax, their estate will be completely depleted. The PSR also reflects $121,000 in general debt.

The Tidwells understand that they are responsible for their criminal actions, but simply request the mercy of the court in allowing them to serve their sentences one after another, with Mrs. Tidwell being allowed to stay out of custody while Mr. Tidwell serves his sentence. If Mr. Tidwell qualifies for the drug treatment program, he would have approximately 26-30 months remaining to serve on his sentence. In the converse, if Mrs. Tidwell were to serve her sentence first, she would serve approximately 12-15 months before her release from incarceration if she can participate in the drug treatment program. The Tidwells ask for this relief not for delay purposes, but for maintaining their family unit and their financial stability, what little remains.

2. Voluntary Surrender

Mr. Tidwell violated his conditions of release by testing positive for marijuana, which frankly is a great source of frustration for Mrs. Tidwell as it abruptly left her trying to maintain the household, financially and emotionally. Due in part to this violation, His Honor denied Mr. Tidwells's request to be released so that Mrs. Tidwell could begin her presumptively shorter sentence first. In practical terms, this means Mr. Tidwell has 53 months left on his sentence without consideration of "good time," any reduction for participating in the 500 hour drug program or placement in a half-way house. Counsel's best estimate for "good time" reduction would be 85% of the 53 months remaining. This would leave 45 months to serve. Should Mr. Tidwell avail himself of the 500 hour drug program, he could potentially reduce his sentence another 12 months for a total of 33 months remaining to serve from today. Obviously, this is a best case scenario that is largely dependent upon Mr. Tidwell's conduct and the Bureau of Prison.

Counsel and Mrs. Tidwell are requesting the Mrs. Tidwell's report date be deferred for 33 months. This does two things that may be of primary interest to the Court. First, it further incentivizes Mr. Tidwell to use his time productively and further his rehabilitative efforts. Knowing that Mrs. Tidwell will have to report to prison and leave their children without a parent should reinforce the impact of both of their decisions and add a another "carrot" for Mr. Tidwell to be a model prisoner. Second, it allows Mrs. Tidwell to continue her outpatient alcohol treatment that she has engaged in with the Probation Department. As noted in the PSR, Mrs. Tidwell has never failed a drug test but has acknowledged an alcohol problem that worsened upon the sudden incarceration of her husband.

His Honor has heard of the financial woes of the Tidwells' and will not rehash them here though it is somewhat ironic to note that the their biggest problem is a bounced check to the IRS because of the Government's freeze of their account and subsequent forfeiture of that account, leaving the IRS debt outstanding. Once sentencing and the civil forfeitures are complete, Mrs. Tidwell would be able to dispose of any remaining property that are currently clouded by the government's lis pendens and avoid predatory buyers trying to take advantage of the Tidwells' situation.

III.

CONCLUSION

Defendant SHANNA TIDWELL respectfully requests that the Court grant this motion and stagger the service of her sentence by 33 months.

Respectfully submitted,

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ATTORNEY FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of April, 2017, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which sent notification of such filing to all counsel of record and the United States Probation Office.

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Jason D. Cassel

CERTIFICATE OF CONFERENCE

The undersigned discussed this motion with Mary Ann Cozby, Assistant United States Attorney, and she OPPOSES this motion.

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Jason D. Cassel